



# Chapter 313 Annual Eligibility Report Form

Economic Development  
and Analysis  
**Form 50-772-A**

## SECTION 1: Applicant and District Information

1. Tax year covered by this report: 2013  
**NOTE:** This report must be completed and submitted to the school district by May 15 of every year using information from the previous tax (calendar) year.
2. Application number: Application 196  
**NOTE:** You can find your application number and all agreement documents and reports on the website [www.texasahead.org/tax\\_programs/chapter313/applicants](http://www.texasahead.org/tax_programs/chapter313/applicants)
3. Name of school district: O'Donnell ISD
4. Name of project on original application (or short description of facility): Wind Tex Energy-Stephens, LLC
5. Name of applicant on original application: Wind Tex Energy-Stephens, LLC
6. Name the company entering into original agreement with district: Wind Tex Energy-Stephens, LLC
7. Amount of limitation at time of application approval: \$10,000,000
8. If you are one of two or more companies originally applying for a limitation, list all other applicants here and describe their relationships.  
(Use attachments if necessary.)

N/A

## SECTION 2: Current Agreement Information

1. Name of current agreement holder(s) Stephens Ranch Wind Energy, LLC
2. Complete mailing address of current agreement holder 591 W. Putnam Ave. Greenwich CT, 06830
3. Company contact person for agreement holder (same as signatory for this form):  

<u>Himanshu Saxena</u>	<u>Managing Director</u>
Name	Title
<u>203-422-7878</u>	<u>hsaxena@starwood.com</u>
Phone	Email
4. Texas franchise tax ID number of current agreement holder: 12619006286 (Stephens Ranch Wind Energy, LLC)
5. If the current agreement holder does not report under the franchise tax law, please include name and tax ID of reporting entity:  

<u>N/A</u>	
Name	Tax ID
6. If the authorized company representative is different from the contact person listed above, complete the following:  

<u>Same</u>	
Name	Title
<u>Complete Mailing Address</u>	
<u></u>	<u></u>
Phone	Email
7. If you are a current agreement holder who was not an original applicant, please list all other current agreement holders. Please describe the chain of ownership from the original applicant to the new entities. (Use attachments if necessary.)

-SEE ATTACHED ASSIGNMENT DOCUMENTATION



**SECTION 3: Applicant Eligibility Information**

1. Does the business entity have the right to transact business with respect to Tax Code, Chapter 171?  
(Attach printout from Comptroller Web site: <http://www.window.state.tx.us/taxinfo/coasintr.html>) ..... ☒ Yes ☐ No
  2. Is the business entity current on all taxes due to the State of Texas? ..... ☒ Yes ☐ No
  3. Is the business activity of the project an eligible business activity under Section 313.024(b)? ..... ☒ Yes ☐ No
- 3a. Please identify business activity: 221119 Renewable Energy Electric Generation

**SECTION 4: Qualified Property Information**

1. Market value from previous tax year: ..... \$ 0.00
2. I&S taxable value from previous tax year: ..... \$ 0.00
3. M&O taxable value from previous tax year: ..... \$ 0.00

**SECTION 5A: Wage and Employment Information for Applications Prior to Jan. 1, 2014 (#1 Through 999)**

**ONLY COMPLETE THE WAGE SECTION (5A or 5B) THAT APPLIES TO YOUR APPLICATION. You can find your application number on the website at [www.texasahead.org/tax\\_programs/chapter313/applicants](http://www.texasahead.org/tax_programs/chapter313/applicants).**

**NOTE:** All statutory references in Section 5A are for statute as it existed prior to Jan. 1, 2014. For job definitions see TAC §9.1051(14) and Tax Code, §313.021(3). If the agreement includes a definition of "new job" other than TAC §9.1051(14)(C), then please provide the definition "new job" as used in the agreement. Notwithstanding any waiver by the district of the requirement for the creation of a minimum number of new jobs, or any other job commitment in the agreement, Tax Code §313.024(d) requires that 80 percent of all new jobs be qualifying jobs.

1. How many new jobs were based on the qualified property in the year covered by this report? (See note above) ..... 0
2. What is the number of new jobs required for a project in this school district according to §313.021(2)(A)(iv)(b), §313.051(b), as appropriate? ..... 10
3. Did the applicant request that the governing body waive the minimum job requirement, as provided under Tax Code §313.025(f-1)? ..... ☐ Yes ☒ No
  - 3a. If yes, how many new jobs must the approved applicant create under the waiver? ..... 0
4. Calculate 80 percent of new jobs (0.80 x number of new jobs based on the qualified property in the year covered by this report.) ..... 0
5. What is the minimum required annual wage for each qualifying job in the year covered by the report? ..... \$ 37,089.00
6. Identify which of the four Tax Code sections is used to determine the wage standard required by the agreement:  
☐ §313.021(5)(A) or ☐ §313.021(5)(B) or ☐ §313.021(3)(E)(ii) or ☒ §313.051(b)
  - 6a. Attach calculations and cite exact Texas Workforce Commission data source as defined in TAC §9.1051.
7. Does the agreement require the applicant to provide a specified number of jobs at a specified wage? ..... ☐ Yes ☒ No
  - 7a. If yes, how many qualifying jobs did the approved applicant commit to create in the year covered by the report? ..... 0
  - 7b. If yes, what annual wage did the approved applicant commit to pay in the year covered by the report? ..... \$ 0
  - 7c. If yes, how many qualifying jobs were created at the specified wage in the year covered by the report? ..... 0
8. How many qualifying jobs (employees of this entity and employees of a contractor with this entity) were based on the qualified property in the year covered by the report? ..... 0
  - 8a. Of the qualifying job-holders last year, how many were employees of the approved applicant? ..... 0
  - 8b. Of the qualifying job-holders last year, how many were employees of an entity contracting with the approved applicant? ..... 0
  - 8c. If any qualifying job-holders were employees of an entity contracting with the applicant, does the approved applicant or assignee have documentation from the contractor supporting the conclusion that those jobs are qualifying jobs? ..... ☐ Yes ☐ No ☒ N/A



**SECTION 5B: Wage and Employment Information for Applications After Jan. 1, 2014 (#1000 and Above)**

**ONLY COMPLETE THE WAGE SECTION (5A or 5B) THAT APPLIES TO YOUR APPLICATION. You can find your application number on the website at [www.texasahead.org/tax\\_programs/chapter313/applicants](http://www.texasahead.org/tax_programs/chapter313/applicants).**

**NOTE:** For job definitions see TAC §9.1051(14) and Tax Code, §313.021(3).

**QUALIFYING JOBS**

1. What is the number of new qualifying jobs the applicant committed to create in the year covered by this report? . . . . . \_\_\_\_\_
2. Did the applicant request that the governing body waive the minimum qualifying job requirement, as provided under Tax Code §313.025(f-1)? . . . . . ☐ Yes ☐ No
  - 2a. If yes, how many new qualifying jobs must the approved applicant create under the waiver? . . . . . \_\_\_\_\_
3. Which Tax Code section are you using to determine the wage standard required for this project? . . . . ☐ §313.021(5)(A) or ☐ §313.021(5)(B)
  - 3a. Attach calculations and cite exact Texas Workforce Commission data sources as defined in TAC §9.1051.
4. What is the minimum required annual wage for each qualifying job in the year covered by this report? . . . . . \$ \_\_\_\_\_
5. What is the annual wage the applicant committed to pay for each of the qualifying jobs in the year covered by this report? . . . . . \$ \_\_\_\_\_
6. Do the qualifying jobs meet all minimum requirements set out in Tax Code §313.021(3)? . . . . . ☐ Yes ☐ No

**NON-QUALIFYING JOBS**

7. What is the number of non-qualifying jobs the applicant had on Dec. 31 of the year covered by this report? . . . . . \_\_\_\_\_
8. What was the average wage you were paying for non-qualifying jobs on Dec. 31 of the year covered by this report? .. \$ \_\_\_\_\_
9. What is the county average weekly wage for non-qualifying jobs, as defined in TAC §9.1051? . . . . . \$ \_\_\_\_\_

**MISCELLANEOUS**

10. Did the applicant rely on a determination by the Texas Workforce Commission under the provisions §313.024(3)(F) in meeting the qualifying job requirements? . . . . . ☐ Yes ☐ No
  - 10a. If yes, attach supporting documentation to evidence that the requirements of §313.021(3)(F) were met.
11. Are you part of a Single Unified Project (SUP) and relying on the provisions in Tax Code §313.024(d-2) to meet the qualifying job requirements? . . . . . ☐ Yes ☐ No
  - 11a. If yes, attach supporting documentation from the Texas Economic Development and Tourism Office including a list of the other school district(s) and the qualifying jobs located in each.

**SECTION 6: Qualified Investment During Qualified Time Period**

ENTITIES ARE NOT REQUIRED TO COMPLETE THIS SECTION IF THE YEAR COVERED BY THE REPORT IS AFTER THE QUALIFYING TIME PERIOD OF THEIR AGREEMENT.

1. What is the qualified investment expended by this entity from the beginning of the qualifying time period through the end of the year covered by this report? . . . . . \$ 442,636.00 \*
2. Was any of the land classified as qualified investment? . . . . . ☐ Yes ☒ No
3. Was any of the qualified Investment leased under a capitalized lease? . . . . . ☐ Yes ☒ No
4. Was any of the qualified Investment leased under an operating lease? . . . . . ☐ Yes ☒ No
5. Was any property not owned by the applicant part of the qualified investment? . . . . . ☐ Yes ☒ No

\*Total qualified investment requirements have been met by other assignee (Cirrus Wind 1, LLC).

**SECTION 7: Partial Interest**

THE FOLLOWING QUESTIONS MUST BE ANSWERED BY ENTITIES HAVING A PARTIAL INTEREST IN AN AGREEMENT. For limitation agreements where there are multiple company entities that receive a part of the limitation provided by the agreement: 1) each business entity not having a full interest in the agreement should complete a separate form for their proportionate share of required employment and investment information; and, 2) separately, the school district is required to complete an Annual Eligibility Report that provides for each question in this form a sum of the individual answers from reports submitted by each entity so that there is a cumulative Annual Eligibility Report reflecting the entire agreement.

1. What was your limitation amount (or portion of original limitation amount) during the year covered by this report? . . . 0.00
2. Please describe your interest in the agreement and identify all the documents creating that interest.

Wind Tex Energy-Stephens, LLC assigned ownership of its Chapter 313 agreement to Cirrus Wind 1, LLC & Stephens Ranch Wind Energy, LLC

-SEE ATTACHED ASSIGNMENT DOCUMENTATION

Please note value limitation does not begin until 2014.

**SECTION 8: Approval**

*"I am the authorized representative for the Company submitting this Annual Eligibility Report. I understand that this Report is a government record as defined in Chapter 37 of the Texas Penal Code. The information I am providing on this Report is true and correct to the best of my knowledge and belief."*

**print  
here** ➔

Himanshu Saxena

Print Name (Authorized Company Representative)

Managing Director

Title

**sign  
here** ➔

*Himanshu Saxena*

Signature (Authorized Company Representative)

*May 14, 2014*

Date

**print  
here** ➔

Alex Evans - Cummings Westlake LLC

Print Name of Preparer (Person Who Completed the Form)



## Franchise Tax Account Status

As of: 05/01/2014 02:14:09 PM

**This Page is Not Sufficient for Filings with the Secretary of State**

<b>STEPHENS RANCH WIND ENERGY, LLC</b>	
<b>Texas Taxpayer Number</b>	12619006286
<b>Mailing Address</b>	8129 SAN FERNANDO WAY DALLAS, TX 75218-4435
<b>Right to Transact Business in Texas</b>	ACTIVE
<b>State of Formation</b>	DE
<b>Effective SOS Registration Date</b>	02/14/2008
<b>Texas SOS File Number</b>	0800937617
<b>Registered Agent Name</b>	STEVEN K DEWOLF
<b>Registered Office Street Address</b>	8129 SAN FERNANDO WAY DALLAS, TX 75218





## Franchise Tax Account Status

As of: 05/01/2014 03:01:24 PM

**This Page is Not Sufficient for Filings with the Secretary of State**

CIRRUS WIND 1, LLC	
Texas Taxpayer Number	32045636357
Mailing Address	2208 AVENUE P APT 4 TAHOKA, TX 79373-4113
Right to Transact Business in Texas	ACTIVE
State of Formation	TX
Effective SOS Registration Date	11/14/2011
Texas SOS File Number	0801507452
Registered Agent Name	YINING JASON YANG
Registered Office Street Address	2208 AVENUE P, SUITE 4 TAHOKA, TX 79373

**2010 Manufacturing Wages by Council of Government Region**  
**Wages for All Occupations**

COG	Wages	
	Hourly	Annual
<b>Texas</b>		
<a href="#">1. Panhandle Regional Planning Commission</a>	\$18.60	\$38,683
<a href="#">2. South Plains Association of Governments</a> ← <b>Lynn County &amp; O'Donnell ISD</b>	\$16.21	<b>\$33,717</b>
<a href="#">3. NORTEX Regional Planning Commission</a>	\$18.34	\$38,153
<a href="#">4. North Central Texas Council of Governments</a>	\$23.45	\$48,777
<a href="#">5. Ark-Tex Council of Governments</a>	\$15.49	\$32,224
<a href="#">6. East Texas Council of Governments</a>	\$17.63	\$36,672
<a href="#">7. West Central Texas Council of Governments</a>	\$17.48	\$36,352
<a href="#">8. Rio Grande Council of Governments</a>	\$15.71	\$32,683
<a href="#">9. Permian Basin Regional Planning Commission</a>	\$19.90	\$41,398
<a href="#">10. Concho Valley Council of Governments</a>	\$15.33	\$31,891
<a href="#">11. Heart of Texas Council of Governments</a>	\$17.91	\$37,257
<a href="#">12. Capital Area Council of Governments</a>	\$25.37	\$52,778
<a href="#">13. Brazos Valley Council of Governments</a>	\$15.24	\$31,705
<a href="#">14. Deep East Texas Council of Governments</a>	\$15.71	\$32,682
<a href="#">15. South East Texas Regional Planning Commission</a>	\$27.56	\$57,333
<a href="#">16. Houston-Galveston Area Council</a>	\$24.52	\$51,002
<a href="#">17. Golden Crescent Regional Planning Commission</a>	\$20.07	\$41,738
<a href="#">18. Alamo Area Council of Governments</a>	\$17.28	\$35,952
<a href="#">19. South Texas Development Council</a>	\$13.27	\$27,601
<a href="#">20. Coastal Bend Council of Governments</a>	\$21.55	\$44,822
<a href="#">21. Lower Rio Grande Valley Development Council</a>	\$14.35	\$29,846
<a href="#">22. Texoma Council of Governments</a>	\$18.10	\$37,651
<a href="#">23. Central Texas Council of Governments</a>	\$17.21	\$35,788
<a href="#">24. Middle Rio Grande Development Council</a>	\$13.21	\$27,471

Source: Texas Occupational Employment and Wages

Data published: June 2011

Data published annually, next update will be June 2012.

Note: Data is not supported by the Bureau of Labor Statistics (BLS).

Wage data is produced from Texas OES data, and is not to be compared to BLS estimates.

Data intended for TAC 313 purposes only.

$$\begin{aligned} \$33,317 \times 110\% &= \\ \$37,089 \end{aligned}$$

**ASSIGNMENT AND ASSUMPTION AGREEMENT**  
(O'Donnell ISD)

This Assignment and Assumption Agreement ("Assignment") is entered into and effective March ~~26~~ 2012 by and between Wind Tex Energy-Stephens, LLC, a Texas limited liability company ("Wind Tex-Stephens") and Stephens Ranch Wind Energy, LLC, a Delaware limited liability company ("Project Company").

RECITALS

1. Wind Tex-Stephens and its affiliates are developing a wind energy conversion facility approximately 340 MW in size in Borden and Lynn Counties, Texas.

2. Wind Tex-Stephens is party to an Agreement for Limitation on Appraised Value of Property for School District Maintenance and Operations Taxes with O'Donnell Independent School District ("O'Donnell") dated November 14, 2011 (the "O'Donnell Agreement").

3. Pursuant to an Asset Purchase Agreement dated December 8, 2011 ("APA"), Wind Tex-Stephens and certain of its affiliates sold to Cirrus Wind 1, LLC, a Texas limited liability company ("CW1") certain lease rights, interconnection rights, study results and other assets owned by Wind Tex-Stephens and its affiliates so that CW1 could develop a wind conversion facility approximately 61.2 MW in size (the "Cirrus Project").

4. Pursuant to an Assignment and Assumption Agreement dated December 8, 2011 by and between Wind Tex-Stephens and CW1 (the "CW1 Assignment"), Wind Tex-Stephens assigned to CW1 all its rights, title and interest in, under and to the O'Donnell Agreement associated with the Cirrus Project and CW1 assumed and agreed to perform and pay all the terms, covenants, obligations, liabilities and conditions of Wind Tex-Stephens under the O'Donnell Agreement associated with the Cirrus Project existing on December 8, 2011 subject to certain exceptions set forth in the CW1 Assignment.

5. On December 8, 2011, Wind Tex-Stephens issued that certain Notice of Partial Assignment (the "Notice") and O'Donnell acknowledged receipt of the Notice and accepted CW1 as assignee (the "Acknowledgment").

6. Pursuant to a Purchase and Sale Agreement of even date herewith by and among Steven K. DeWolf, Tammy DeWolf, Robert E. Erwin, Wind Tex-Stephens and Mesa – Stephens Ranch, LLC (the "PSA"), affiliates of Wind Tex-Stephens are selling to Mesa – Stephens Ranch, LLC 100% of the membership interests in Wind Tex-Stephens.

7. To complete the obligations of certain of its affiliates under the PSA, Wind Tex-Stephens wishes to assign all of its rights and obligations under the O'Donnell Agreement to the Project Company.

NOW, THEREFORE, in consideration of the above premises, the mutual promises set forth below, and other good and valuable consideration, the receipt of which is acknowledged, Wind Tex-Stephens and the Project Company agree as follows:



## **AGREEMENT**

### **ARTICLE I — DEFINITIONS**

Capitalized terms used in this Assignment shall have the meanings given to them in the PSA or the O'Donnell Agreement, as applicable, unless otherwise specifically defined in this Assignment.

### **ARTICLE II — ASSIGNMENT**

2.1 Assignment. Subject to the terms of this Assignment and the PSA, Wind Tex-Stephens conveys, assigns, transfers, sells, and grants to the Project Company all of Wind Tex-Stephens's rights, title and interest in, under and to the O'Donnell Agreement effective March ~~26~~<sup>26</sup>, 2012 (the "Effective Date").

2.2 Assumption. Subject to the execution and delivery of this Assignment and the PSA, the Project Company assumes and agrees to perform and pay all the terms, covenants, obligations, liabilities and conditions of Wind Tex-Stephens under the O'Donnell Agreement associated with the Project accruing or arising on or after the Effective Date; provided, however, that the Project Company is not assuming any such covenants, obligations, liabilities and conditions of Wind Tex-Stephens under the O'Donnell Agreement associated with the Cirrus Project or any obligations of Wind Tex-Stephens pursuant to the CW1 Assignment. Wind Tex-Stephens shall remain responsible for all liabilities, payments and obligations which arose or accrued under the O'Donnell Agreement prior to the Effective Date.

### **ARTICLE III — WARRANTIES AND REPRESENTATIONS; CONSENT**

3.1 Wind Tex-Stephens. Wind Tex-Stephens represents that the copies of the O'Donnell Agreement, the Notice and the Acknowledgment provided by Wind Tex-Stephens to the Project Company and Mesa – Stephens Ranch, LLC are complete and accurate, and there are no amendments, modifications, waivers or other changes to any of the terms of either agreement that have not been disclosed to the Project Company and Mesa – Stephens Ranch, LLC.

3.2 Consent. Section 8.4 of the O'Donnell Agreement provides that assignment by Wind Tex-Stephens is permitted to a new owner of all or a portion of Wind Tex-Stephens's Qualified Property or Qualified Investment, as defined in the O'Donnell Agreement, subject to Wind Tex-Stephens providing written notice of such assignment to O'Donnell and others with all the relevant information required by Section 8.4. Wind Tex-Stephens agrees to provide notice to O'Donnell and other parties listed in Section 8.4 of the O'Donnell Agreement as soon as possible after closing on the PSA and execution of this Assignment. The Project Company will provide any information to Wind Tex-Stephens needed to complete the required notice.

### **ARTICLE IV — MISCELLANEOUS**

4.1 No Assignment. The rights and obligations of this Assignment may not be assigned or transferred by a party without the prior written consent of the other party. All assignments of rights are prohibited, whether they are voluntary or involuntary, by merger, consolidation,

dissolution, operation of law, or any other manner and, in the case of a merger, include any merger in which a party participates, regardless of whether it is the surviving or disappearing entity. No party may delegate any performance under this Assignment. Any purported assignment of this Assignment in the absence of the required consent shall be void.

4.2 Notices. Any notice, demand, request or communication required or authorized by this Assignment shall be delivered either by hand, facsimile, overnight courier or mailed by certified mail, return receipt requested, with postage prepaid, to:

Wind Tex Energy-Stephens, LLC  
Attn: Steven K. DeWolf  
10,000 North Central Expressway Suite 900  
Dallas, TX 75231  
Tel: (214) 954-9540  
Fax: (214) 954-9541

with a copy to:

Jeffrey Fink, Esq.  
Apple & Fink, LLP  
735 Plaza Boulevard, Suite 200  
Coppell, TX 75019  
Tel: (972) 315-1900  
Fax: (972) 315-1955

on behalf of Wind Tex-Stephens; and

Stephens Ranch Wind Energy, LLC  
Attention: Cole Robertson  
8117 Preston Road, Suite 260  
Dallas, Texas 75225  
Tel: (214) 265-4165  
Fax: (214) 750-9773

with a copy to:

Locke Lord LLP  
2200 Ross Ave., Suite 2200  
Dallas, Texas 75201  
Telephone: (214) 740-8433  
Fax: (214) 756-8433  
Attention: Billie J. Ellis, Jr.

on behalf of the Project Company

The designation and titles of the person to be notified or the address of such person may be changed at any time by written notice. Delivery of any such notice, demand, request, or communication shall be deemed delivered on receipt if delivered by hand or facsimile and on deposit by the sending party if delivered by courier or US mail.

4.3 Captions. All titles, subject headings, section titles, and similar items are provided for the purpose of reference and convenience and are not intended to be inclusive, definitive or to affect the meaning of the contents or scope of this Assignment.

4.4 No Third-Party Beneficiary. No provision of this Assignment is intended to nor shall it in any way inure to the benefit of any customer, property owner or any other third party, so as to constitute any such person a third-party beneficiary under this Assignment, or of any one or more of the terms hereof, or otherwise give rise to any cause of action in any person not a party hereto.

4.5 Integration; Amendment. This Assignment constitutes the entire agreement between the parties relating to the transaction described herein and supersedes any and all prior oral or written understandings. No amendment, addition to, or modification of any provision hereof shall be binding upon the parties, and neither party shall be deemed to have waived any provision or any remedy available to it unless such amendment, addition, modification or waiver is in writing and signed by a duly authorized officer or representative of the applicable party or parties.

4.6 Governing Law. This Assignment is made in the State of Texas and shall be interpreted and governed by the laws of the State of Texas without regard to its conflict of laws principles, and/or the laws of the United States, as applicable.

4.7 Severability. Should any provision of this Assignment be or become void, illegal or unenforceable, the validity or enforceability of the other provisions of this Assignment shall not be affected and shall continue in force. The parties will, however, use their best endeavors to agree on the replacement of the void, illegal or unenforceable provision(s) with legally acceptable clauses which correspond as closely as possible to the sense and purpose of the affected provision and this Assignment as a whole.

4.8 Cooperation. The parties agree to reasonably cooperate with each other in the implementation and performance of this Assignment. Such duty to cooperate shall not require any party to act in a manner inconsistent with its rights under this Assignment.

4.9 Counterparts. This Assignment may be signed in any number of counterparts, and by the parties in separate counterparts, and each such counterpart shall represent a fully executed original as if signed by all parties, with all such counterparts together consisting one instrument. Signatures delivered by facsimile or electronically shall be considered to have been delivered upon receipt by each party and such delivery shall be effective as though originals were so delivered and received.

(SIGNATURE PAGES TO FOLLOW)



Dated: March 26, 2012

WIND TEX ENERGY-STEPHENS, LLC,  
a Texas limited liability company

By: 

Name: Steven K. DeWolf

Title: Manager

Dated: March 26, 2012

STEPHENS RANCH WIND ENERGY, LLC,  
a Delaware limited liability company

By: Wind Tex Energy-Stephens, LLC,  
a Texas limited liability company,  
Sole Member

By: 

Name: Steven K. DeWolf

Title: Manager